

### REMARKS

This application has been reviewed in light of the Office Action dated September 15, 2006. In view of the foregoing amendments and the following remarks, favorable reconsideration and withdrawal of the rejections set forth in the Office Action are respectfully requested.

Claims 1, 4-9 and 17-22 are pending. Claims 1, 17 and 18 have been amended. Support for the claim changes can be found in the original disclosure, and therefore no new matter has been added. Claims 1, 17 and 18 are in independent form.

Claim 18 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite in that the term “adapted to” directed to the control means has not been positively recited. In Claim 18 as currently amended, the objected to term “a control unit adapted to control” has been changed to “a control unit for controlling”. Accordingly, it is believed that Claim 18 meets the requirements of 35 U.S.C. § 112, second paragraph, and that Claims 18-22 are allowable.

Claims 1, 4, 6, 7 and 17 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,634,463 (*Hayafuji*). Claims 8 and 9 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Hayafuji* in view of U.S. Patent No. 6,131,574 (*Kohayakawa*) in further in view of U.S. Patent No. 5,946,073 (*Miwa*).

Independent Claim 1 as currently amended is directed to a non-contact tonometer in which a fluid blowing unit blows fluid onto a cornea to deform the cornea. A measuring light projection unit projects measuring light onto the cornea and a cornea deformation detecting unit detects the measuring light reflected by the cornea when the cornea is deformed by the fluid so as

to have a predetermined curvature radius. A calculating unit calculates intraocular pressure on the basis of the corneal deformation detecting unit detection. A control unit controls measuring operations of the non-contact tonometer performed sequentially a predetermined number of times and a comparing unit compares the intraocular pressure obtained by the calculating unit for each of the predetermined number of times. The control unit gives a warning if the intraocular pressure obtained by the calculating unit for at least one of the predetermined number of times exceeds the predetermined limit.

Independent Claim 17 is directed to a non-contact tonometer in which a fluid blowing unit blows fluid onto a cornea to deform the cornea. A measuring light projecting unit projects measuring light onto the cornea and a corneal deformation detecting unit detects the measuring light reflected by the cornea when the cornea is deformed by the fluid to have a predetermined radius. A calculating unit calculates intraocular pressure on the basis of the corneal deformation detecting unit detection. A control unit controls the measuring operations of the non-contact tonometer to measure right and left eyes sequentially a predetermined number of times, respectively. A comparing unit compares the intraocular pressure obtained by the calculating unit for each of the predetermined number of times with a predetermined limit. The control unit stops the measuring operations after completion of the predetermined number of measurements of the eyes under measurement if the intraocular pressure obtained by the calculating unit exceeds the predetermined limit for at least one of the predetermined number of measurements.

In Applicant's view, Hayafuji discloses a non-contact type tonometer capable of accurately measuring intraocular pressure of a subject's eye even if the intraocular pressure is much higher than normal. The non-contact type tonometer has a fluid discharging device that

discharges fluid toward a cornea of the eye. A corneal transfiguration detecting portion detects the corneal transfiguration. A pressure detecting portion detects discharge pressure of the fluid and a delay circuit for determines the precise moment for stopping the operation of the fluid discharging means according to the discharge pressure detected by the pressure detecting means.

According to the invention defined in Claims 1 and 17, interocular pressure is calculated from corneal deformation detection measuring operations performed sequentially a predetermined number of times. The calculated interocular pressure for each of the predetermined times is compared with a predetermined limit. In Claim 1, a warning is given if the calculated intraocular pressure for at least one of the predetermined times exceeds the predetermined limit. In Claim 17, the left eye and the right eye are measured sequentially a predetermined number of times, respectively. and, after completion of the predetermined number of measurements, the measuring operations are stopped if the calculated intraocular pressure for at least one of the predetermined number of measurements exceeds the predetermined limit.

Hayafuji clearly discloses with respect to Fig. 2 that as the compressed air discharge pressure toward the eye increases, the detected cornea transfiguration signal gradually increases. When the corneal transfiguration signal exceeds a predetermined level B, a stopping delay signal time T is set to determine the time of stopping the solenoid for the compressed air discharge. The interocular pressure of the eye is calculated based on a pressure detecting signal obtained when the corneal transfiguration signal reaches its peak.

In view of the foregoing Hayafuji disclosure, it is believed that Hayafuji is directed away from and fails in any manner to teach or suggest the feature of calculated intraocular pressure from measurements made a predetermined number of times being compared with a

predetermined limit combined with the feature of giving a warning if the calculated intraocular pressure for at least one of the predetermined number of times exceeds a predetermined limit as in Claim 1. Further, Hayafuji is devoid of the feature of the left eye and the right eye being measured sequentially a predetermined number of times combined with the feature of measuring operations being stopped if the calculated intraocular pressure for at least one of the predetermined number of measurements exceeds the predetermined limit after completion of the predetermined number of measurements as in Claim 17. It is therefore believed that Claims 1 and 17 as currently amended are completely distinguished from Hayafuji and are allowable.

A review of the other art of record has failed to reveal anything which, in Applicant's opinion, would remedy the deficiencies of the art discussed above, as references against the independent claims herein. These claims are therefore believed patentable over the art of record.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's attorney, Douglas W. Pinsky, may be reached in our Washington office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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